



1 P-R-O-C-E-E-D-I-N-G-S

2 9:41 a.m.

3 CHAIRPERSON ANDERSON: Good morning,  
4 everyone. I would like to welcome you to the  
5 regularly scheduled meeting of the District of  
6 Columbia Alcoholic Beverage Control Board.  
7 Please know that today's hearings will be  
8 conducted in accordance with D.C. Official Code  
9 Section 2-574 of the Open Meetings Act.

10 Today is December 12, 2018. I would  
11 first like to introduce Members of the Board with  
12 us today. To my far right is Mr. Bobby Cato. To  
13 my immediate right is Mr. Nick Alberti. To my  
14 far left is Ms. Rema Wahabzadah. To her right is  
15 Mr. Mike Silverstein. My name is Donovan  
16 Anderson. I'm Chairman of the Board. We have  
17 five Members in attendance today. We do have a  
18 quorum to conduct business.

19 I would like to mention two things  
20 before we get started. First of all, if you have  
21 any electronic devices, pagers, cell phones or  
22 such, please, make certain that they are turned

1 off to avoid any interruption of the proceedings.

2 Secondly, there is a piece of paper on  
3 each table. When you come forward as your case  
4 is called, please, take a seat at the table and,  
5 please, sign-in. This is to ensure the correct  
6 spelling of your name for the record.

7 Additionally, when you introduce  
8 yourself for the record, please, spell your name  
9 aloud for the court reporter.

10 I would note that the approximate time  
11 is 9:43 a.m.

12 The first order of business today is  
13 a Protest Hearing (Status), Case No. 18-PRO-  
14 00077, To Be Determined, License No. 111311.  
15 Will the parties, please, approach and identify  
16 themselves for the record, please?

17 MS. HARMON: Hello. I'm Florence  
18 Harmon, ANC-2A Commissioner. As you know or you  
19 may not know, the Commissioner for this SMD  
20 passed away, so I'm helping out with it. And I'm  
21 representing ANC-2A.

22 CHAIRPERSON ANDERSON: Good morning,

1 Ms. Harmon.

2 MR. LEIBOW: I'm Philip Leibow. I'm  
3 the president of the Westlake Association  
4 Condominium and I believe part of the group is on  
5 the complaint.

6 MS. HARMON: Yeah, he is the  
7 representative for the Group of Five.

8 MR. LEIBOW: I'm the representative.

9 CHAIRPERSON ANDERSON: You are the  
10 representative for the Group of Five. Yes?

11 MS. YOHANNES: Good morning. Sidon  
12 Yohannes on behalf of the applicant.

13 CHAIRPERSON ANDERSON: Good morning,  
14 Ms. Yohannes.

15 Are there any preliminary matters or  
16 there are no issues in this and standing was  
17 given to the Group of Five at the Roll Call?

18 MS. YOHANNES: There are no issues.  
19 We hope to get a settlement agreement to you  
20 shortly.

21 CHAIRPERSON ANDERSON: All right. All  
22 right. This matter is scheduled for a Protest

1 Hearing on January 16th at 1:30 p.m.

2 Now that we have scheduled this matter  
3 for a Protest Hearing, there are a few things I  
4 would like to instruct the applicant and the  
5 protestant about, so that the Protest Hearing is  
6 focused and addresses only those issues that are  
7 being protested.

8 The Board does not intend to hear  
9 testimony on matters that are not relevant to  
10 this case. You should have received by  
11 electronic or regular mail a letter explaining  
12 the protest process, a copy of the Protest  
13 Information Form and a copy of the Exhibit Form.  
14 If you do not have these documents, please,  
15 contact Assistant General Counsel April Randall  
16 following this hearing.

17 It is imperative that you review the  
18 rules closely and that you follow them before and  
19 during the Protest Hearing. You are also  
20 required to complete and submit the Protest  
21 Information Form (PIF) and the Exhibit Form seven  
22 days before the date of the hearing. These two

1 forms and accompanying documents need to be  
2 submitted to ABRA's Legal Division and to all  
3 opposing parties in this matter.

4           If we do not receive a copy of your  
5 PIF, your application or your protest, whichever  
6 side you are representing, may be subject to  
7 dismissal. Likewise, if we do not receive a copy  
8 of the Exhibit Form and the exhibits themselves,  
9 your exhibits may be excluded from the record  
10 upon a finding that the opposing party has been  
11 prejudiced or no good cause for failure to submit  
12 has been shown.

13           Likewise witnesses other than a party  
14 may also be subject to exclusion if not  
15 identified in the PIF.

16           Accordingly, these forms are very  
17 important as they greatly assist the Board in  
18 narrowing the protest issues, facilitating the  
19 process and keeping the parties on point during  
20 the hearing. They likewise provide notice to  
21 opposing parties enabling them to better prepare  
22 for the hearing.

1                   We thank you greatly for your  
2                   cooperation. If you have any questions today or  
3                   at any time leading up to the hearing, please, do  
4                   not hesitate to contact AGC Randall at (202) 442-  
5                   4353. Thank you.

6                   Just as an FYI, I was told that the  
7                   parties are discussing a settlement and the Board  
8                   -- I prefer having settlements, because at least  
9                   you can determine what is in the best interest of  
10                  your community, rather than having the Board make  
11                  that decision for you.

12                  I just want to -- your name again,  
13                  sir, Mr.?

14                  MR. LEIBOW: Philip, Philip.

15                  CHAIRPERSON ANDERSON: No, your last  
16                  name.

17                  MR. LEIBOW: Leibow.

18                  CHAIRPERSON ANDERSON: Mr. Leibow, you  
19                  are representing the group of -- a group. Is  
20                  that correct?

21                  MR. LEIBOW: Yes.

22                  CHAIRPERSON ANDERSON: I just want to

1 let you know as an FYI that if the ANC signs on a  
2 settlement agreement and if you are not a party  
3 to it, but if there is a settlement agreement,  
4 then you lose out and the Board cannot force them  
5 to make you a party of a group.

6 But sometimes what happens is that the  
7 ANC and the licensee come to a settlement  
8 agreement. The Group of Five or More is not in  
9 agreement and they believe that they can move  
10 forward with the hearing, but under the law, if  
11 there is a settlement and if you are not part of  
12 it, then you fall.

13 So I hope that if there is an  
14 agreement that you are a part of it. We can't  
15 force them to make you a party, but just let you  
16 know that --

17 MR. LEIBOW: Thank you.

18 CHAIRPERSON ANDERSON: -- if you are  
19 not part of it, then there is nothing I can do.

20 MR. LEIBOW: I will be.

21 CHAIRPERSON ANDERSON: I just wanted  
22 to let you know that. People come and I'm like



1       okay, you can't dismiss the protest because we  
2       still have issued. I just wanted to let you know  
3       that. Okay. All right.

4               All right. This is -- so I'll also  
5       state if I do not see you on January 16, 2019, I  
6       will not take it personally, because that will  
7       tell me that the parties decided to have a  
8       settlement agreement and to do what is in their  
9       best interest.

10              So good luck with your discussions and  
11       if I see you in January, I will be happy. If I  
12       don't see you, I will be happy. Yes, ma'am?

13              MS. HARMON: I just want to thank the  
14       Board. I'm retiring after 13 years and a lot of  
15       you have been here helping me for a long time. I  
16       want to thank Fred Moosally and Martha and all  
17       the ABRA staff. They have just been fantastic.

18              And I just have high regard for the  
19       staff. They are really talented and have been  
20       very, very helpful. So I'll miss seeing you.  
21       Well, maybe I'll see you in another capacity  
22       other than a Group of Five, hopefully not.

1           But I think because of your support  
2 over the years, we have developed really good  
3 relationships with the Counsels for the  
4 licensees. I know I have enjoyed working with  
5 Sidon and Andrew Kline and all Manny Mpras and  
6 all the other attorneys we have worked with.

7           And so I think in our ANC we have more  
8 of a collaborative relationship with the  
9 licensees now and, you know, we don't have the  
10 two that were the issue, so you know we are quite  
11 -- we really appreciate all your support, all the  
12 Investigators who helped us all over and through  
13 the years.

14           So I just wanted to say thank you.

15           CHAIRPERSON ANDERSON: Well, thank you  
16 very much for putting that on the record. And  
17 it's good to hear that the Agency is doing the  
18 work that it needs to do.

19           MS. HARMON: Yes.

20           CHAIRPERSON ANDERSON: Because we try  
21 to be the type of Agency that is responsive to  
22 the community, responsive to the ANCs and I'm

1 glad that you put it on the record to say that  
2 the Agency has been very responsive to the ANCs  
3 and to making this a better process. So thank  
4 you very much.

5 Yes, Mr. Silverstein?

6 MEMBER SILVERSTEIN: Commissioner  
7 Harmon, I want to thank you and on a personal  
8 note, it is beyond the work that you have done  
9 here that you have made a contribution to the  
10 community.

11 Five or six years ago Francis Stevens  
12 School was about to shut down for lack of  
13 enrollment. And there would have been no  
14 elementary school in the -- in your neighborhood,  
15 which is also my neighborhood. And you were one  
16 of the leaders, one of the people who fought the  
17 hardest to keep the school open and to turn it  
18 around.

19 This year there was a waiting list of  
20 over 1,000 for that school. And the work that  
21 you have done there, the work that you have done  
22 with Ivy Mountain, such as that to provide

1 education for those with disabilities, has been a  
2 true gift to the District of Columbia. And I  
3 thank you for your service.

4 MS. HARMON: Thank you.

5 MEMBER SILVERSTEIN: And wish you the  
6 happiest of holidays and God speed, my friend.

7 MS. HARMON: Thank you. Well, you've  
8 got some Court of Appeals decisions, you know. I  
9 mean, I think, you know, with the community  
10 working with ABRA, you know, I think there are  
11 some very significant legal precedent that it  
12 will be helpful to the Board and to the staff.

13 So I have really enjoyed working with  
14 you all. I know sometimes you wondered, but I  
15 really have enjoyed working you all.

16 MEMBER SILVERSTEIN: Thank you.

17 CHAIRPERSON ANDERSON: Thank you.

18 MS. HARMON: Thanks.

19 (Whereupon, the Protest (Status)

20 Hearing was concluded at 9:51 a.m.)  
21  
22

<p style="text-align: center;"><b>A</b></p> <p>a.m 2:2 3:11 12:20  <b>ABRA</b> 9:17 12:10  <b>ABRA's</b> 6:2  <b>accompanying</b> 6:1  <b>Act</b> 2:9  <b>Additionally</b> 3:7  <b>addresses</b> 5:6  <b>AGC</b> 7:4  <b>Agency</b> 10:17,21 11:2  <b>ago</b> 11:11  <b>agreement</b> 4:19 8:2,3,8  8:9,14 9:8  <b>Alberti</b> 1:17 2:13  <b>Alcoholic</b> 1:2,12,13 2:6  <b>aloud</b> 3:9  <b>ANC</b> 1:7,21 8:1,7 10:7  <b>ANC-2A</b> 3:18,21  <b>ANCs</b> 10:22 11:2  <b>Anderson</b> 1:14,16 2:3  2:16 3:22 4:9,13,21  7:15,18,22 8:18,21  10:15,20 12:17  <b>Andrew</b> 10:5  <b>Appeals</b> 12:8  <b>applicant</b> 4:12 5:4  <b>Applicant's</b> 1:20  <b>application</b> 1:9 6:5  <b>appreciate</b> 10:11  <b>approach</b> 3:15  <b>approximate</b> 3:10  <b>April</b> 5:15  <b>assist</b> 6:17  <b>Assistant</b> 5:15  <b>Association</b> 4:3  <b>attendance</b> 2:17  <b>attorneys</b> 10:6  <b>avoid</b> 3:1</p>	<p><b>Cato</b> 1:17 2:12  <b>cause</b> 6:11  <b>cell</b> 2:21  <b>certain</b> 2:22  <b>Chairman</b> 2:16  <b>Chairperson</b> 1:14,16  2:3 3:22 4:9,13,21  7:15,18,22 8:18,21  10:15,20 12:17  <b>closely</b> 5:18  <b>Code</b> 2:8  <b>collaborative</b> 10:8  <b>Columbia</b> 1:1 2:6 12:2  <b>come</b> 3:3 8:7,22  <b>Commissioner</b> 3:18,19  11:6  <b>community</b> 7:10 10:22  11:10 12:9  <b>complaint</b> 4:5  <b>complete</b> 5:20  <b>concluded</b> 12:20  <b>Condominium</b> 4:4  <b>conduct</b> 2:18  <b>conducted</b> 2:8  <b>contact</b> 5:15 7:4  <b>contribution</b> 11:9  <b>Control</b> 1:2,12,13 2:6  <b>cooperation</b> 7:2  <b>copy</b> 5:12,13 6:4,7  <b>correct</b> 3:5 7:20  <b>Counsel</b> 1:20 5:15  <b>Counsels</b> 10:3  <b>court</b> 3:9 12:8  <b>CR</b> 1:7</p>	<p style="text-align: center;"><b>E</b></p> <p><b>education</b> 12:1  <b>electronic</b> 2:21 5:11  <b>elementary</b> 11:14  <b>enabling</b> 6:21  <b>enjoyed</b> 10:4 12:13,15  <b>enrollment</b> 11:13  <b>ensure</b> 3:5  <b>excluded</b> 6:9  <b>exclusion</b> 6:14  <b>Exhibit</b> 5:13,21 6:8  <b>exhibits</b> 6:8,9  <b>explaining</b> 5:11</p> <p style="text-align: center;"><b>F</b></p> <p><b>facilitating</b> 6:18  <b>failure</b> 6:11  <b>fall</b> 8:12  <b>fantastic</b> 9:17  <b>far</b> 2:12,14  <b>finding</b> 6:10  <b>first</b> 2:11,20 3:12  <b>five</b> 2:17 4:7,10,17 8:8  9:22 11:11  <b>Florence</b> 1:21 3:17  <b>focused</b> 5:6  <b>follow</b> 5:18  <b>following</b> 5:16  <b>force</b> 8:4,15  <b>Form</b> 5:13,13,21,21 6:8  <b>forms</b> 6:1,16  <b>forward</b> 3:3 8:10  <b>fought</b> 11:16  <b>Francis</b> 11:11  <b>Fred</b> 9:16  <b>friend</b> 12:6  <b>FYI</b> 7:6 8:1</p>	<p><b>hearing</b> 1:6,13 3:13 5:1  5:3,5,16,19,22 6:20  6:22 7:3 8:10 12:20  <b>hearings</b> 2:7  <b>Hello</b> 3:17  <b>helped</b> 10:12  <b>helpful</b> 9:20 12:12  <b>helping</b> 3:20 9:15  <b>hesitate</b> 7:4  <b>high</b> 9:18  <b>holidays</b> 12:6  <b>hope</b> 4:19 8:13  <b>hopefully</b> 9:22</p>
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: West End

Before: DCABRA

Date: 12-12-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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